

# Legislative Audit Division

State of Montana



Report to the Legislature

June 2003

## Performance Audit

### Montana's Sexual or Violent Offender Registration Program

Department of Justice  
Division of Criminal Investigation

This report contains information about Montana's Sexual or Violent Offender Registry. Our review found the Department of Justice administers the program in an effective manner. Department of Justice accomplishments include:

- ▶ A registry integrated with state criminal records information databases.
- ▶ An Internet website providing information about sexual and violent offenders in Montana.
- ▶ Good communication and coordination with other criminal justice agencies.

Our review identified several areas for enhancing registration requirements including:

- ▶ Modifying the management information system to better track address verification letters.
- ▶ Ensuring information on all registered sexual offenders is entered into the National Sexual Offender Registry.

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Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, statistics, economics, political science, criminal justice, logistics, computer science, and engineering.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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# LEGISLATIVE AUDIT DIVISION

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June 2003

The Legislative Audit Committee  
of the Montana State Legislature:

This is our performance audit of the Sexual or Violent Offender Registration Program managed by the Division of Criminal Investigation within the Department of Justice.

This report provides information to the Legislature regarding the Sexual or Violent Offender Registry (registry). The registry provides the public information about where sexual or violent offenders live in Montana. Additionally, the registry is a critical resource for assisting Montana criminal justice agencies in identifying and tracking sexual or violent offenders. The registry also provides the National Sexual Offender Registry with information about Montana sexual offenders. The registry relies upon local and federal criminal justice agencies and the Department of Corrections to collect information about registered offenders.

This report includes recommendations for modifying Department of Justice systems to enhance the ability of criminal justice agencies to track and monitor offenders, as well as enforce registration requirements.

We wish to express our appreciation to Department of Justice personnel for their cooperation and assistance during the audit. Additionally, we want to thank Department of Corrections and local law enforcement agency personnel for their cooperation and efforts to verify offender addresses.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Scott A. Seacat", with a long horizontal flourish extending to the right.

Scott A. Seacat  
Legislative Auditor

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# **Legislative Audit Division**

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## **Performance Audit**

### **Montana's Sexual or Violent Offender Registration Program**

**Department of Justice  
Division of Criminal Investigation**

Members of the audit staff involved in this audit were Angie Grove,  
Victor C. Valgenti, and Kent Wilcox.



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## **Appointed and Administrative Officials**

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### **Department of Justice**

Mike McGrath, Attorney General

Mike Batista, Administrator, Division of Criminal of Investigation

### **Department of Corrections**

Bill Slaughter, Director

Mike Ferriter, Administrator, Adult Community Corrections

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### Introduction

The Legislative Audit Committee requested a performance audit of the Sexual or Violent Offender Registration Program (registry) managed by the Montana Department of Justice (DOJ). Montana statute requires persons residing in the state who have been convicted of a sexual or violent offense to register with their local law enforcement agency. Montana sheriff offices and police departments who register offenders are required to provide registration information to the registry, which is made available to criminal justice agencies. The public can obtain offender address and conviction information through the DOJ's Sexual or Violent Offender Registry website, which can be accessed at <http://www.doj.state.mt.us>. There are approximately 2,600 sexual or violent offenders registered in Montana.

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### Most Sexual or Violent Offenders are Registered

To determine whether sexual or violent offenders residing in Montana had registered, we examined a random statistical sample of 89 offenders convicted of a sexual or violent offense during calendar years 2000 and 2001. Analysis indicated 80 offenders (90 percent) had registered. Nine offenders (10 percent) had not registered, which was either an oversight by Department of Corrections (DOC) probation and parole officers or sentencing orders did not clarify whether an offender was required to register.

To examine whether address information in the registry is current, we requested local law enforcement agencies verify address information for a randomly selected statistical sample of 45 of the approximately 2,600 registered offenders. Analysis indicated 71 percent of the addresses were current. Although 29 percent of offender addresses in the registry were not current, law enforcement officials were able to locate all but four offenders.

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### The Sexual or Violent Offender Registry Website is Secure From Unauthorized Access

Another audit objective was to examine whether the registry website was secure from unauthorized access that would allow individuals to alter offender information. Analysis indicated the design of the website makes unauthorized changes unlikely and, if completed, temporary.

## Report Summary

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### **Strengthening the Registration Program**

Some sexual or violent offenders attempt to avoid registration or fail to keep law enforcement notified of their current address. Audit work identified areas for strengthening the registration program.

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### **The DOJ Should Modify Its Management Information System to Flag Address Verification Letters Not Returned**

The DOJ sends each registered offender an address verification letter every year. Registered offenders are required to sign the letter before a notary public and return the letter. However, the DOJ's management information system does not have the capability for flagging verification letters that are not returned to the registry. Audit work identified 239 instances in which registered offenders had not returned address verification letters, resulting in DOJ being unable to request local law enforcement agencies investigate offender noncompliance with registration requirements. We recommend the DOJ modify its management information system to flag offenders whose address verification letters are not returned to the registry.

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### **The DOJ Can Improve Law Enforcement Access to Registered Offender Information**

A primary means for enforcing registration requirements is identifying noncompliant offenders during routine contacts with law enforcement, such as during traffic stops or field investigations. However, the standard identification request for information through Montana's Criminal Justice Information Network (CJIN) does not automatically check the registry to determine whether a person is a registered offender or an offender's compliance status. We recommend the DOJ modify the standard CJIN query to automatically check registration information and provide information on the status of all registered offenders.

---

### **The DOJ Should Develop Procedures to Assure All Registered Sexual Offender are identified in the National Sexual Offender Registry**

Federal law requires states register sexual offenders in the National Sexual Offender Registry. The DOJ has not entered sexual offenders living in Montana but convicted in other states into the national registry because the DOJ did not have an FBI number associated with the fingerprint card that is assigned when fingerprint cards are submitted after an arrest. According to DOJ management, this information can be obtained from the state where the offender was

convicted. We recommend the DOJ develop procedures to obtain this information and assure all sexual offenders registered in Montana are entered into the National Sexual Offender Registry.

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**The DOJ Should Seek  
Clarification of Statutory  
Language Stating Local Law  
Enforcement is Responsible  
for Registering Offenders**

Montana statute states offenders convicted of a sexual or violent offense and sentenced to probation under the supervision of DOC must register with the local probation and parole office. However, in practice local law enforcement agencies are the sole registering agencies in communities and counties, and probation and parole officers require probationers to register with the appropriate law enforcement agency. This practice ensures there is a single registering entity within a jurisdiction and the public has a single resource for obtaining information about registrants at the local level. We recommend the DOJ seek legislation to clarify that local law enforcement agencies are solely responsible for registering sexual or violent offenders.



# Chapter I - Introduction

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## Introduction

The Legislative Audit Committee requested a performance audit of the Sexual or Violent Offender Registration Program. The Division of Criminal Investigation within the Montana Department of Justice (DOJ), in cooperation with the Department of Corrections (DOC) and local and federal criminal justice system agencies, maintains a state registry of offenders convicted of sexual or violent crimes.

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## Audit Objectives

Audit objectives were to answer the following questions:

- ▶ Are sexual or violent offenders registered in the Sexual or Violent Offender Registry?
- ▶ Are the addresses of registered offenders current?
- ▶ Is the Sexual or Violent Offender Registry website secure from unauthorized access?
- ▶ Can enforcement of registration requirements be improved?
- ▶ Is the registry effective in assisting criminal justice agencies to identify noncompliant offenders and enforcing registration requirements?

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## Audit Scope

Audit scope focused on providing information about the reliability of offender information maintained on the Department of Justice's Sexual or Violent Offender Registry. Audit work included examination of DOJ activities related to registration. Since the Department of Corrections has general supervisory responsibilities for many sexual and violent offenders, audit work included identifying its activities related to registration.

Montana statute also assigns local law enforcement agencies responsibilities for registering sexual or violent offenders and providing public notification about these offenders. Additionally, local jurisdictions are responsible for enforcing registration requirements. While we interviewed local law enforcement representatives about program activities, we did not audit their enforcement activities related to registration.

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## Audit Methodology

To meet the audit objectives, we:

## Chapter I - Introduction

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- ▶ Examined DOJ registration activities and information related to the state registry.
- ▶ Interviewed DOJ management and staff.
- ▶ Interviewed DOC management and staff.
- ▶ Interviewed representatives from 14 sheriff and police departments.

We also reviewed six statistical samples of offenders in order to determine:

- ▶ Whether offenders convicted of offenses requiring registration initially registered with local law enforcement agencies.
- ▶ Whether registered addresses of sexual or violent offenders were current.
- ▶ The number of arrests and convictions for offenders who had not registered as required by state law.
- ▶ Whether arrest warrants were issued for offenders who did not register as required by state law.
- ▶ Whether DOJ could track address verification letters returned by offenders.
- ▶ Whether the DOJ entered sexual offender information on the National Sexual Offender Registry as required by federal law.

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### Management Memorandums

We identified two issues which warranted management attention and presented suggestions for possible improvements to the registry.

The DOJ website information on sexual or violent offenders includes two dates: one date refers to the date the address was last verified by the DOJ and one date refers to the date offender information was extracted from the registry for posting on the website. Offender information is extracted from the registry for the website five days a week and having both dates posted on the website screen is confusing. Website users may believe offender information was last verified within the last one to three days rather than the actual date of address verification. The DOJ could modify the screen format to



clarify the purpose of the dates. We also presented suggestions for enhancing the security of registry information.

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### **Report Organization**

This report is organized into three additional chapters. Chapter II describes the roles of the various state and local agencies in registering offenders. Chapter III concludes on the effectiveness of the registration program. Chapter IV presents recommendations for strengthening the registration process and enforcement of registration requirements.



# Chapter II - Registration of Sexual or Violent Offenders

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## Introduction

This chapter provides an overview of the Sexual or Violent Offender Registry (registry) managed by the Division of Criminal Investigation within the Montana Department of Justice (DOJ). The DOJ maintains the registry in cooperation with local, state, and federal criminal justice agencies that collect information about sexual or violent offenders and report the information to the registry.

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## Offender Registration in the United States

Congress passed laws addressing registration of sexual offenders, including requiring states to create sexual offender registries, and giving states broad discretion to determine what types of sexual offender information is made available to the public.

In 1996, Congress also required the U.S. Department of Justice to establish a national database for tracking the location and movements of persons who commit certain sexual crimes or crimes against children. The National Sexual Offender Registry (NSOR) is a database maintained by the National Crime Information Center (NCIC), a national repository for criminal justice information within the Federal Bureau of Investigation. Access to NSOR information is restricted to criminal justice system agencies for law enforcement purposes only.

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## Access to Sexual Offender Registries Varies Among States

Public access to and information available on offender registries varies among states. Some states provide extensive offender information, including pictures, address information, nature of offense(s), characteristics of an offender's victim(s), and other biographical information. Some states provide limited information such as the general location of offenders, while other states consider this information confidential and make it available for law enforcement purposes only.

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## History of Montana's Sexual or Violent Offender Registration Act

The 1989 Montana Legislature enacted the Sexual Offender Registration Act and assigned responsibility for the registry to the Department of Corrections. While this act required sexual offenders

## **Chapter II - Registration of Sexual or Violent Offenders**

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to register, it contained no provisions for making offender information public. Significant amendments to the Act include:

- ▶ The 1995 Legislature amended the Act:
  - To include violent offenders. Montana is one of the few states to require registration of violent offenders, although some states have established registries for persons convicted of specific offenses such as arson.
  - Authorizing release of offender information necessary to protect the public.
- ▶ The 1997 Legislature amended the Act:
  - Moving the registry from the Department of Corrections to the Department of Justice.
  - Making registration for sexual offenders retroactive for persons sentenced, in the custody, or under the supervision of the Department of Corrections on or after July 1, 1989.
  - Making registration for violent offenders retroactive for persons sentenced, in the custody, or under the supervision of the Department of Corrections on or after October 1, 1995.

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### **Risk Levels are Assigned to Some Sexual Offenders**

The 1997 Legislature also established a tier level system to identify the risks sexual offenders pose to the public. Tier levels assigned are:

- ▶ Tier 1 – low risk.
- ▶ Tier 2 – medium risk.
- ▶ Tier 3 – high risk or sexual predators.

Statute authorizes the sentencing judge to determine an offender's tier level. If a judge does not assign a tier level, DOC determines the tier level based on a sexual offender evaluation using a risk assessment tool. Sexual offenders sentenced before 1997, or convicted by a federal or another state's court may not be assigned a tier level. Violent offenders are not assigned a tier level.

## Chapter II - Registration of Sexual or Violent Offenders

### Montana Law Specifies Offenses Requiring Registration

Section 46-23-502, MCA, specifies the sexual or violent offenses requiring registration. Examples of offenses requiring registration include:

- ▶ Sexual Intercourse without Consent
- ▶ Sexual Assault
- ▶ Sexual Abuse of Children
- ▶ Indecent Exposure
- ▶ Incest
- ▶ Deliberate Homicide
- ▶ Kidnapping
- ▶ Arson
- ▶ Aggravated Assault
- ▶ Robbery
- ▶ Partner or Family Member Assault (third or subsequent conviction)

Montana law also requires offenders convicted of similar offenses in another state or by a federal court to register. Failure to register or maintain a current registration is a felony, punishable by imprisonment for up to five years or a \$10,000 fine, or both.

Table 1 provides information on the number of sexual and violent offenders registered in Montana.

**Table 1**  
**Registered Offenders Living in Montana\***  
**As of January 30, 2003**

Type of Offender	Number of Offenders
Sexual Offenders	1,168
Violent Offenders	1,396
Sexual and Violent Offenders	28
Total	2,592

\* Offenders incarcerated or living in other states are not included.

Source: Compiled by the Legislative Audit Division from Department of Justice records.

## **Chapter II - Registration of Sexual or Violent Offenders**

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In addition to registered offenders in living in Montana communities, there are approximately 1,011 registrants listed as inactive. These offenders are either incarcerated or living in other states. DOJ does not provide information about inactive registrants.

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### **The Registration Process**

Registration of sexual or violent offenders depends primarily on offenders reporting to the appropriate local law enforcement agency responsible for registering offenders. Offenders are required to register within ten days of establishing a residence in a community or county. Additionally, offenders are responsible for notifying local law enforcement agencies within ten days of any change in address. Sexual or violent offenders convicted in another state or by a federal court must also register with local law enforcement agencies upon establishing a residence in Montana. The following sections describe the roles of the various agencies involved in the registration process.

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### **Multiple Agencies Involved with Sexual or Violent Offender Registration**

The Montana Departments of Justice and Corrections, and local law enforcement agencies have significant roles in registering sexual and violent offenders.

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### **Department of Justice**

The Division of Criminal Investigation within the DOJ is responsible for maintaining the state's registry. The department has one FTE assigned as a program specialist for managing and updating the registry. The program specialist also verifies each offender's address once a year by mailing address verification letters which offenders must sign before a notary public and return to the department. In accordance with state and federal law, the program also sends address verification letters to tier level 3 sexual offenders every three months. If address verification letters are returned as undeliverable or if an offender fails to return the verification letter, the program specialist notifies the appropriate law enforcement agency of potential noncompliance. DOJ is not responsible for enforcing offender compliance with registration requirements or prosecuting noncompliant offenders.

## **Chapter II - Registration of Sexual or Violent Offenders**

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The registry at DOJ is funded entirely from the General Fund. The department spent approximately \$59,200 on the program in fiscal year 2002.

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### **Department of Corrections**

Sexual or violent offenders are not required to register until they are released from prison. Institutional probation and parole officers at Montana prisons forward offender registration information to the DOJ and the local law enforcement agency where the offender intends to live. Community probation and parole officers are responsible for assuring offenders sentenced to probation or released onto parole register with local law enforcement and remain compliant with registration requirements.

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### **Local Law Enforcement**

Sheriff offices and police departments are responsible for registering offenders in their jurisdictions and forwarding registration information to DOJ for posting into the registry. Law enforcement registration activities include obtaining and documenting offender information on a standardized DOJ registration form, including address information, photographs, fingerprints, and DNA samples. Law enforcement agencies must submit registration information to the DOJ within three days of an offender registering.

Figure 1 illustrates the form used by local law enforcement agencies to collect offender information. DOC personnel also use this form for collecting offender information.

## Chapter II - Registration of Sexual or Violent Offenders

Figure 1

### Offender Information Form



#### Montana Department of Justice Sexual and Violent Offender Registration Form

FORM MUST BE COMPLETED BY THE AGENCY PLEASE TYPE OR PRINT

1	<b>Current Date:</b> 2002-04-11	<b>Form Use:</b> <input type="checkbox"/> Submitting New Registration <input type="checkbox"/> Updating Registration Info <input type="checkbox"/> Correcting Registration Info	<b>Form Completed by [name, agency, and telephone]:</b> 
2	<b>Conviction Type:</b> <input type="checkbox"/> Montana <input type="checkbox"/> Out-of-state <input type="checkbox"/> Federal	<b>Offense Type:</b> <input type="checkbox"/> Sexual <input type="checkbox"/> Violent <input type="checkbox"/> Both	<b>Tier Level:</b> <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> None
<b>Release or Transfer Date:</b> 			
<b>Release or Transfer Comments:</b> 			
3	<b>Last Name:</b> 	<b>First Name:</b> 	<b>Middle Name:</b> 
<b>AKA:</b> 		<b>Social Security Number:</b> 	<b>Montana State ID:</b> MT
		<b>Sex:</b> <input type="checkbox"/> M <input type="checkbox"/> F	
4	<b>Physical Address:</b> 	<b>City:</b> 	<b>County:</b> 
<b>Mailing Address:</b> 		<b>City:</b> 	<b>County:</b> 
		<b>State:</b> 	<b>Zip:</b> 
		<b>Telephone:</b> 	
5	<b>Employer:</b> 	<b>Occupation:</b> 	<b>Employment Address:</b> 
		<b>Telephone:</b> 	
6	<b>Sentence Date:</b> 	<b>Offense/s:</b> 	<b>Court Case No:</b> 
		<b>Place of Sentence [city and state]:</b> 	
7	<b>License Plate No:</b> 	<b>State:</b> 	<b>Year:</b> 
<b>Make:</b> 		<b>Model:</b> 	<b>Color:</b> 
<b>Owner:</b> <input type="checkbox"/> Y <input type="checkbox"/> N		<b>DL No:</b> 	<b>State:</b> 
8	<b>Number of Victims:</b> 	<b>Victim/s Age:</b> 	<b>Victim/s Sex:</b> 
<b>Victim Relationship:</b> 		<b>Place of Crime [city and state]:</b> 	
<b>Force Used?</b> <input type="checkbox"/> Y <input type="checkbox"/> N		<b>Type of Force:</b> 	<b>Other Comments:</b> 
		<b>Source of Section 8 Info:</b> 	
9	<b>Sex Offender Treatment Status [if applicable]:</b> <input type="checkbox"/> Currently in Treatment <input type="checkbox"/> Not in Treatment <input type="checkbox"/> Completed Treatment		<b>Comments:</b> 
		<b>Date Started:</b> 	
		<b>Date to Begin:</b> 	
		<b>Date Completed:</b> 	
10	<b>Additional Information and Comments:</b> 		

C.

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SVOR-JULY 2001

Source: Department of Justice.



## **Chapter II - Registration of Sexual or Violent Offenders**

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Some county and city governments have coordinated registration activities to have a single point of contact for registration and public information. For example, the Bozeman Police Department has assumed responsibility for registering all offenders living in Gallatin County, except for the community of West Yellowstone.

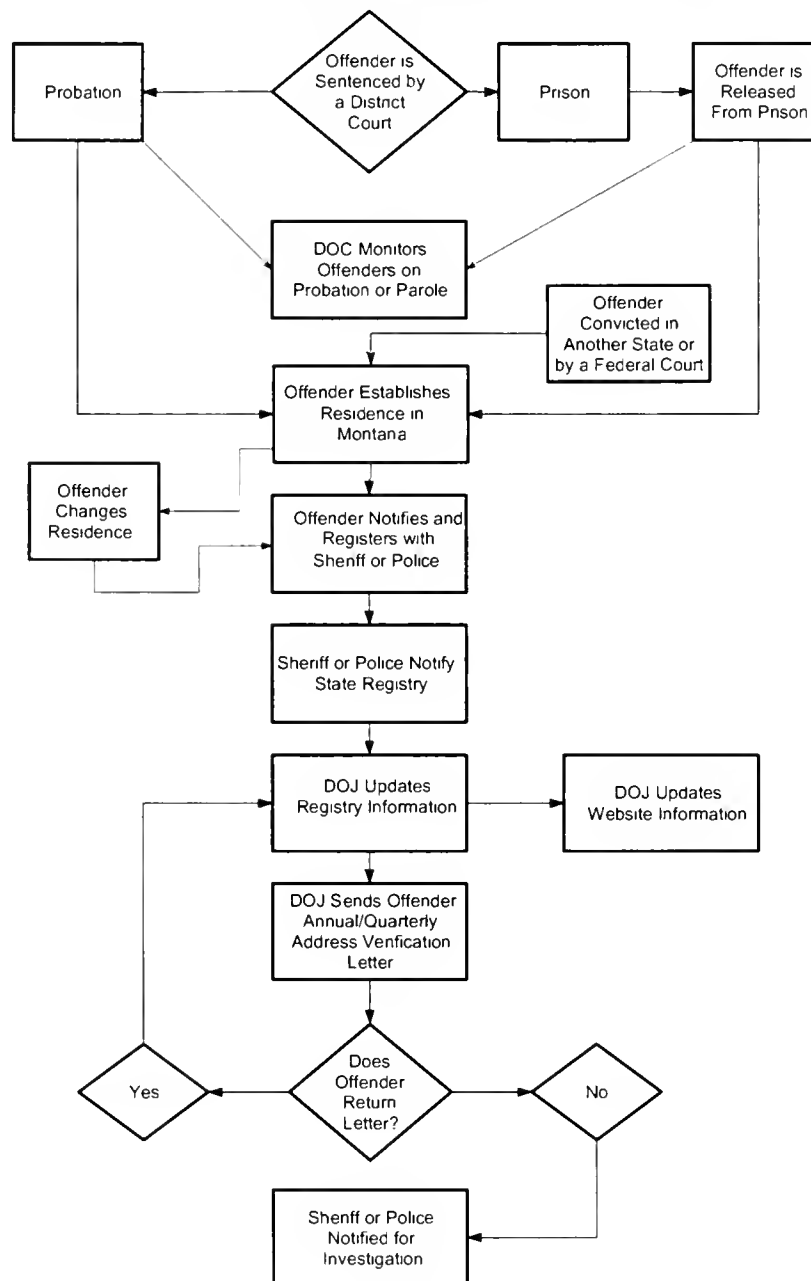
Law enforcement agencies are also responsible for investigating cases of offenders who may not have complied with registration requirements. If investigations determine offenders are noncompliant, law enforcement agencies can request a warrant for arrest from the county attorney. County attorneys are responsible for prosecuting offenders who fail to comply with registration requirements.

Figure 2 illustrates the registration process.

## Chapter II - Registration of Sexual or Violent Offenders

Figure 2

### The Sexual or Violent Offender Registration Process



Source: Created by the Legislative Audit Division from Department of Justice information.

## Chapter II - Registration of Sexual or Violent Offenders

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### Who Uses the Sexual or Violent Offender Registry?

The registry was established to help criminal justice system agencies track and monitor sexual and violent offenders. This registry is part of the Montana Criminal Justice Information Network (CJIN), which is maintained by the DOJ. CJIN is a network system that interfaces with criminal justice system databases maintained by the DOJ and the DOC to provide information about offenders and other criminal justice system information to state, local, and federal agencies.

Examples of Montana criminal justice system databases include:

- ▶ Criminal History Records System/Sexual Offender Registry, which has offender arrest, prosecution, conviction information, and registration information about sexual or violent offenders.
- ▶ Montana law enforcement Wants and Warrants, which has information on individuals wanted by law enforcement for various reasons.
- ▶ Motor vehicle registration information.
- ▶ Driver's license information.

Criminal justice agencies can access registration information using a specific query on CJIN to identify sexual or violent offenders.

CJIN also interfaces with the National Crime Information Center (NCIC), which is part of the U.S. Department of Justice and the Federal Bureau of Investigation. The NCIC is a national repository of criminal justice information for federal, state, and local criminal justice agencies. State and local criminal justice agencies are responsible for entering information they want on the national database. Additionally, criminal justice agencies have access to the National Sexual Offender Registry.

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### Some Offender Information is Public Record

The registry also provides basic offender information to the public. The Department of Justice extracts information from the registry to create a searchable database of public offender information. This information is available through DOJ's Sexual or Violent Offender Registry website, which can be accessed at <http://www.doj.state.mt.us>. DOJ updates website information five days a week to ensure the public has the most current information

## **Chapter II - Registration of Sexual or Violent Offenders**

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provided by local law enforcement agencies. Information available for all sexual or violent offenders on the website includes:

- ▶ Name and aliases.
- ▶ Type of offense.
- ▶ Offender address.
- ▶ Date address was last verified.
- ▶ County or city where offender is registered.
- ▶ Contact information for the registering agency.

Figure 3 provides an example of information available on the website.

## Chapter II - Registration of Sexual or Violent Offenders

Figure 3

### Sexual or Violent Offender Information on Department of Justice Website

The screenshot shows a web browser window titled "Montana Sexual and Violent Offender Registry - Microsoft Internet Explorer". The address bar shows "http://svori2.doj.state.mt.us:8010/index.htm". The website header includes the Montana Department of Justice logo and the text "Division of Criminal Investigation, Montana Department of Justice, State of Montana". A navigation bar contains links: Home, Search, Reports, Laws, and Community Education. The main content area displays information for "Doe, John". It states "No Photo Available" and "Also Known As: Doe, Johnny". Below this, it lists "Offender Type: Violent" and "Tier Level: Not Designated". A section titled "Last Known Address" provides details: "Address Date: 01-03-2003", "County: Yellowstone", "City: Billings", "State: MT", and "Zip: 59102". The "Offense Information" section lists "Sentence: 200 Main Street", "Counts: 1", and "Federal or Non Montana Statute: Arizona Armed Robbery". The "Registering Agency Information" section lists "Agency Name: YELLOWSTONE COUNTY SHERIFF" and "Agency Phone: (406) 256-2929". At the bottom, it states "Information Last Updated: February 05, 2003 04:09:34 AM" and "Source: Montana Sexual and Violent Offender Registry".

Montana Sexual and Violent Offender Registry - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Forward Stop Search Favorites Media Print

Address http://svori2.doj.state.mt.us:8010/index.htm Go

**Sexual and Violent Offender Registry**

Division of Criminal Investigation  
Montana Department of Justice  
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**Doe, John**

No Photo Available

Also Known As:  
Doe, Johnny

(Click for further explanation)

Offender Type: Violent Tier Level: Not Designated

**Last Known Address**

Address Date: 01-03-2003 County: Yellowstone  
Address: 649 Parkhill City: Billings State: MT Zip: 59102

**Offense Information**

Sentence: 200 Main Street  
Counts: 1  
Federal or Non Montana Statute: Arizona Armed Robbery

**Registering Agency Information**

Agency Name: YELLOWSTONE COUNTY SHERIFF Agency Phone: (406) 256-2929

Information Last Updated: February 05, 2003 04:09:34 AM  
Source: Montana Sexual and Violent Offender Registry

Done Internet

Source: Department of Justice website.

DOJ has pictures of all registered offenders, but only pictures of tier level 3 offenders and tier level 2 offenders considered a significant public safety risk are posted on the registry. Statute also authorizes local law enforcement agencies to release some additional offender information for tier level 2 and 3 sexual offenders if local law enforcement agencies determine additional information is needed for public safety.

### Sexual Offenders Generally Must Register for Life

Statute requires that sexual offenders register for the remainder of their lives. However, a sexual offender may petition the district

## **Chapter II - Registration of Sexual or Violent Offenders**

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court to be relieved of this requirement after ten years of registration, unless the offender:

- ▶ Was convicted of sexual intercourse without consent and compelled the victim to submit by force.
- ▶ Was convicted of incest and the victim was less than twelve years old and the offender was three or more years older than the victim.
- ▶ Was convicted of a subsequent offense requiring registration.
- ▶ Was designated a Tier 3 offender.

A court may grant a petition relieving a sexual offender of the responsibility to register if the court determines the offender has remained a law-abiding citizen and continued registration is not necessary for public safety and is not in the best interests of society.

### **Violent Offenders Must Register for Ten Years**

Violent offenders must register for ten years beginning upon release from prison or from their sentencing date if sentenced to probation. A violent offender convicted of not registering, or convicted of another felony, is required to register for life, but may petition the court to relieve them of registration responsibilities after ten years.

### **Deferred Imposition of Sentences**

Persons convicted of a sexual or violent offense and sentenced to a deferred imposition of sentence are required to register until their conviction is dismissed by a district court. These offenders must petition the court to dismiss the conviction. A deferred imposition of sentence means the court may dismiss the charges against an offender, and the conviction becomes confidential criminal justice information that is not available to the public.

### **Local Law Enforcement Agencies Have Responsibilities for Public Notification**

While the DOJ is responsible for maintaining the state registry and website, local law enforcement is responsible for general public notification about sexual or violent offenders living in a community. Public notification strategies vary among jurisdictions, and may vary by the tier level assigned to an offender. In some jurisdictions, the public needs to request the information from the agency. Some

## **Chapter II - Registration of Sexual or Violent Offenders**

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jurisdictions have registered offender information posted in agency offices, courthouses, or other public places. Several jurisdictions have developed their own sexual or violent offender websites. Law enforcement agencies typically provide increased public notification for tier level 3 sexual offenders and tier level 2 sexual offenders determined to be greater risks to public safety. Examples of public notification activities may include one or more of the following strategies:

- ▶ Publication of offender information in local newspapers.
- ▶ Public meetings in communities where an offender is residing.
- ▶ Targeted notification in neighborhoods or to agencies or groups at potential risk, such as childcare facilities and schools.
- ▶ Internet websites.





# Chapter III - Effectiveness of Sexual or Violent Offender Registration

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## Introduction

This chapter presents information on the effectiveness of sexual and violent offender registration activities in the state related to these audit objectives:

- ▶ Are sexual or violent offenders registered in the Sexual or Violent Offender Registry?
- ▶ Are the addresses of registered offenders current?
- ▶ Is the Sexual or Violent Offender Registry website secure from unauthorized access?

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## Are Sexual or Violent Offenders Registered?

According to unaudited information maintained by the DOJ, there were 848 persons convicted of sexual or violent offenses requiring registration during calendar years 2000 and 2001. We examined a random statistical sample of 155 offenders to determine whether they were registered. Sixty-six offenders were not registered in Montana because they were incarcerated (54 offenders) or living in another state (11 offenders) or a deferred sentence had expired (1 offender). Analysis indicated 89 sexual or violent offenders were living in Montana communities, and 80 offenders (90 percent) were registered as of January 2003. Table 2 presents information about these offenders.

## Chapter III - Effectiveness of Sexual or Violent Offender Registration

Table 2

**Registration Status for a Sample of 155 Sexual and Violent Offenders**  
**Offenders Convicted During Calendar Year 2000 and 2001**

Offender Status	Sexual Offenders	Violent Offenders	Totals
<b>Reason Not Registered in Montana</b>			
Currently Incarcerated	19	35	54
Currently Living in Another State	3	8	11
Deferred Sentence Expired	0	1	1
<b>Total</b>	<b>22</b>	<b>44</b>	<b>66</b>
<b>Offenders Required To Be In The Registry</b>			
Registered	54	26	80
Not Registered but under DOC Supervision	0	6	6
Not Registered – DOC Absconder	0	3	3
<b>Total</b>	<b>54</b>	<b>35</b>	<b>89</b>

Source: Compiled by the Legislative Audit Division from Montana Department of Justice records.

Audit work indicated six violent offenders under probation or parole supervision were not registered. In several instances the failure to register appeared to be an oversight by a DOC probation and parole officer. In other instances, probation or parole officers did not require offenders to register because they believed an offender was exempt from registration due to the sentence imposed or a district court judge did not require the offender register. We also identified three unregistered absconders. DOC absconders are offenders who have fled from DOC supervision and their location is unknown.

**Conclusion:** Approximately 90 percent of offenders convicted of sexual or violent offenses and residing in Montana communities are registered with the state Sexual or Violent Offender Registry.

### Are the Addresses of Registered Offenders Current?

To examine whether the addresses of offenders in the registry are current, we selected another random statistical sample of 45 of the approximately 2,600 offenders from the Sexual or Violent Offender

### **Chapter III - Effectiveness of Sexual or Violent Offender Registration**

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Registry website. We stratified this sample to examine offenders with registration addresses in nine counties. All offenders in this sample were reported on the website as having current addresses. Counties were selected judgmentally and included:

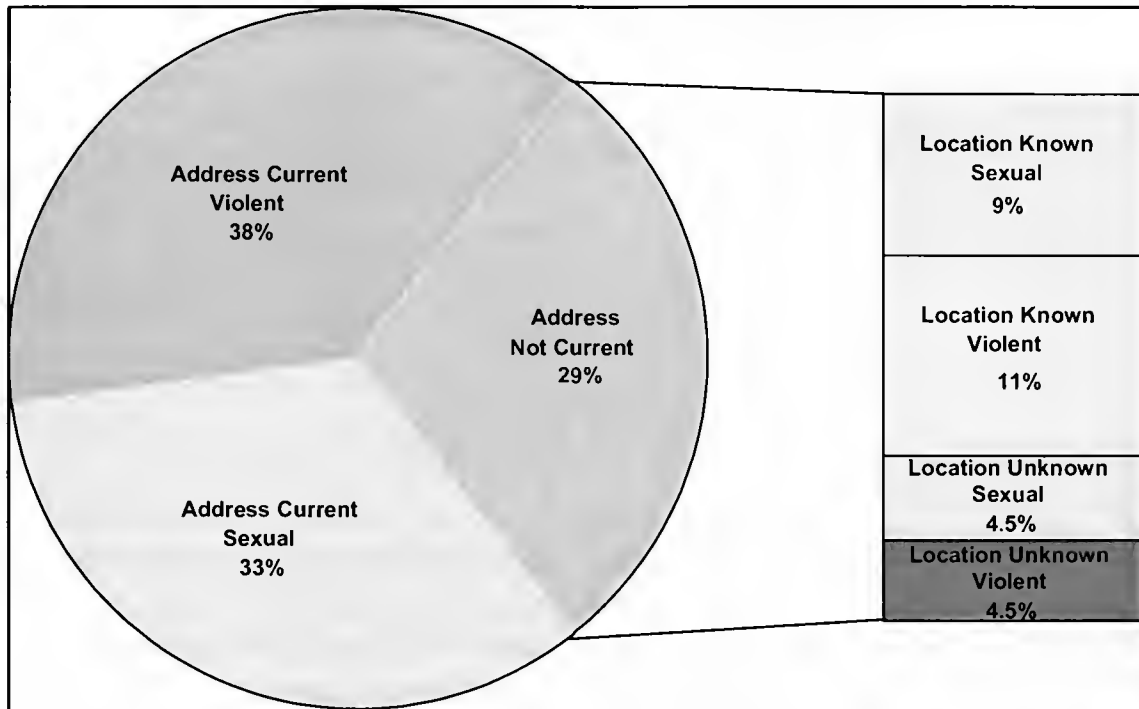
- ▶ Cascade County
- ▶ Custer County
- ▶ Lewis and Clark County
- ▶ Missoula County
- ▶ Park County
- ▶ Stillwater County
- ▶ Valley County
- ▶ Wheatland County
- ▶ Yellowstone County

We then requested local law enforcement and DOC probation and parole officers to physically verify offender addresses. Responses from local criminal justice personnel indicated 71 percent of the addresses on the registry were correct. For those offenders whose addresses were incorrect, in most instances law enforcement or probation and parole officers either knew the offenders correct address or responded they had located the offender. Only 4 of the 45 (9 percent) offenders were not located. Based on this statistical sample, we project that between 3 percent and 19 percent of the addresses on the registry may be incorrect. Figure 4 summarizes these audit findings.

## Chapter III - Effectiveness of Sexual or Violent Offender Registration

**Figure 4**

**Accuracy of Sampled Offenders' Addresses**



**Source: Compiled by the Legislative Audit Division.**

Assuring accuracy of offenders' addresses on the registry is a difficult task. While the registry requires offenders to return address verification letters annually, offenders who subsequently change addresses are responsible for notifying law enforcement. Law enforcement officials stated that some sexual or violent offenders are transients, or tend to frequently change addresses, which increases the risk their addresses are not current. While some registered offenders responsibly report changes of address, relying on convicted felons to report address changes increases the risk of incorrect registration information.

### **Some Law Enforcement Agencies Have Adopted Verification Practices**

To increase assurance registered offenders comply with registration requirements, some law enforcement officials stated they physically verify offender addresses on a regular or random basis. Local

## **Chapter III - Effectiveness of Sexual or Violent Offender Registration**

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enforcement of registration requirements appears to depend on availability of law enforcement resources. Local officials stated increased monitoring of sexual or violent offenders increases workload, and additional monitoring efforts depend on the availability of resources. For example, one county physically verifies offender addresses quarterly. Several other law enforcement officials stated they physically verify addresses semi-annually or as resources permit. One law enforcement representative stated resources are not available for physically verifying addresses.

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### **Some Law Enforcement Agencies Have Their Own Sexual or Violent Offender Websites**

Additionally, some local law enforcement agencies maintain Internet websites of registered offenders within their jurisdiction. A limited comparison of state and local website information indicated some significant differences in offender address information between a local and state website.

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### **Summary**

Our review indicated a significant number of offender addresses in the registry are not current. While DOJ sends out address verification letters as required under state law, the system relies upon registrants to notify law enforcement of address changes, which adversely impacts the accuracy of address information in the registry.

<p><b>Conclusion:</b> Address information on the Sexual or Violent Offender Registry is not always reliable since offenders are responsible for reporting address changes.</p>
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### **Security of the Sexual or Violent Offender Registry**

Another audit objective was to examine whether information on the registry website was secure from unauthorized access that could result in changes to website information.

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### **How Secure is the DOJ Website?**

As noted earlier, the DOJ created an Internet website to provide the public with information about sexual or violent offenders for public safety purposes. By accessing the DOJ website and following the link to the registry website, a person can query on criteria such as county, city, zip code, and last name. Queries list the names of all offenders matching specified criteria, such as living in a selected

## **Chapter III - Effectiveness of Sexual or Violent Offender Registration**

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area or with a similar last name. Our primary audit objective in examining system controls was to determine if a user might be able to delete or alter information presented on the website. Overall we found:

- ▶ The architecture and design of the database make unauthorized changes to the information contained in the website database unlikely and, if completed, temporary.
- ▶ Data is regularly transferred from the central DOJ database to the website database to ensure timeliness of the website data.
- ▶ Internet traffic to the website must pass through the state's firewalls (devices designed to prevent Internet users from accessing unauthorized resources in the state's internal network).
- ▶ Adequate network security is maintained to prevent unauthorized users from gaining direct access to the data.
- ▶ Traffic to the website is monitored by Department of Administration staff through daily review of log files detailing requests denied by the firewall.

**Conclusion:** Overall, making unauthorized changes to the Department of Justice website would be difficult and require a high level of technical knowledge as well as an intimate understanding of the system's architecture and the state's internal network.

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### **Summary**

Audit work indicated that generally sexual or violent offenders were registered. However, a significant number of addresses are not current, often because offenders have not notified local law enforcement of address changes. The next chapter identifies areas to enhance identification of registered offenders and enforcement of registration requirements.

# Chapter IV - Strengthening the Registration Program

## Introduction

Our final audit objective was to examine how criminal justice agencies identify noncompliant offenders and enforce registration requirements. Examination included:

- ▶ Identifying the number of sexual or violent offenders identified as noncompliant with registration requirements.
- ▶ Identifying arrest and conviction information of noncompliant sexual or violent offenders.
- ▶ Examining criminal justice system information available on sexual or violent offenders.

## Local Criminal Justice Agencies are Enforcing Registration

Criminal justice information indicates arrests and convictions for failing to register varied between 1999 and 2002. Table 3 provides arrest and conviction information related to offender noncompliance with registration requirements.

**Table 3**

**Arrests and Convictions of Sexual or Violent Offenders  
Who Did Not Register  
Calendar Year 1999-2002**

Year	Arrests	Convictions	% Convicted
1999	9	5	56%
2000	26	11	42%
2001	34	23	68%
2002	25	17	68%
<b>Totals</b>	<b>94</b>	<b>56</b>	<b>60%</b>

**Source:** Compiled by the Legislative Audit Division from Department of Justice records.

Table 3 does not provide a comprehensive picture of local registration enforcement activities. In many instances, local law enforcement and county attorneys are able to get offenders registered through requests or by warning offenders that failure to register can

## **Chapter IV - Strengthening the Registration Program**

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result in arrest and prosecution. Typically, these strategies are much less costly than proceeding with prosecution while achieving offender compliance with registration requirements.

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### **The DOJ has Focused on Registering Offenders**

Implementing a new system in an agency requires three phases: system development, implementation, and evaluation. Upon receiving responsibility for the registry from the Department of Corrections in 1997, the DOJ's primary focus was developing and implementing a registry to meet law enforcement and public information purposes and implementing additional legislative registration requirements.

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### **DOJ Has Made Significant Accomplishments for Registering Offenders**

Significant DOJ accomplishments for establishing a statewide registry of sexual or violent offenders include:

- ▶ Assumption of a leadership role in assuring the state has an effective registration program.
- ▶ Development and implementation of a registry integrated with criminal records information and accessible to law enforcement through Criminal Justice Information Network (CJIN).
- ▶ Creation of a website that is updated daily to provide information about registered offenders.
- ▶ Standardization of registration documentation.
- ▶ Promotion of communication and coordination among agencies involved with registering offenders.
- ▶ Notification to criminal justice agencies when registrants do not return address verification letters.

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### **DOJ Could Improve Offender Information Available to Criminal Justice Agencies**

While the registration system is working, some offenders attempt to avoid registration or fail to keep law enforcement notified of their current addresses. According to DOJ records as of September 1, 2002, 128 registered offenders were known by law enforcement agencies to be in violation of registration requirements. Additionally, other offenders may have failed to comply with registration requirements but have not yet been identified. The following sections address areas for strengthening the system to



## Chapter IV - Strengthening the Registration Program

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improve identification of offenders who do not comply with registration requirements and provide law enforcement with better tools for enforcing compliance.

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### **DOJ Management Information System Does Not Identify Address Verification Letters Not Returned**

As previously described, DOJ staff sends address verification letters to registered offenders and subsequently updates information received. Program personnel notify law enforcement for further investigation when letters are returned undeliverable. However, DOJ does not have a system to notify staff when address verification letters are not returned. Since the address verification letter is the primary method for verifying offender addresses, DOJ needs to identify unreturned letters.

Audit work identified 239 instances in which registered offenders had not returned their address verification letters to DOJ within at least four months of the letters being mailed. The program specialist was unable to readily or easily identify these offenders for referral to law enforcement or the DOC for further investigation and enforcement.

Unreturned letters may not result in noncompliance. In some instances, an offender may not have received the address verification letter, or an offender may have changed a mailing address but not his residence. However, this system weakness increases the risk that noncompliant offenders may not be identified.

When the system was initially developed, the program specialist manually tracked these offenders on the system. However, as the number of registered offenders has expanded, manual tracking is no longer efficient for identifying unreturned letters. Modifying the department's management information system to flag address verification letters that are not returned would improve enforcement of registration requirements.

## Chapter IV - Strengthening the Registration Program

### **Recommendation #1**

**We recommend the Department of Justice modify its management information system to flag offenders whose address verification letters are not returned to the Sexual or Violent Offender Registry program.**

### **Arrest Warrants Identify Only a Small Percentage of Noncompliant Offenders**

As previously mentioned, registry information indicated 128 registered offenders were not compliant with registration requirements as of September 1, 2002. We selected another random statistical sample of 77 offenders and determined whether an arrest warrant was entered into a CJIN database as of January 2003. Analysis indicated approximately 5 percent of the sampled offenders had warrants for their arrest issued. Table 4 provides information on the number of noncompliant sexual and violent offenders and the number of arrest warrants issued.

**Table 4**

**Arrest Warrants Issued for a Sample of  
Noncompliant Offenders**  
**January 2003**

<b>Type of Offender</b>	<b>Non-Compliant Offenders</b>	<b>Warrant Issued</b>
Violent Offenders	49 (64%)	3 (6%)
Sexual Offenders	28 (36%)	2 (7%)
Total Number of Offenders	77	5 (6%)

**Source: Compiled by the Legislative Audit Division from Department of Justice Records.**

The DOJ has no authority to issue arrest warrants or prosecute noncompliant offenders. Arrest and prosecution for felony offenses is the responsibility of local law enforcement and county attorneys, and we did not examine this issue. Some county attorneys may defer or decline prosecution of noncompliant offenders due to allocation of resources for cases determined to be a higher priority.

## Chapter IV - Strengthening the Registration Program

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However, arrest warrants are a primary means for criminal justice system personnel to identify violations of registration laws. Not issuing arrest warrants increases the risk criminal justice agencies will not identify noncompliant offenders and reduces their authority to detain noncompliant offenders.

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### Enhancing Enforcement of Offender Registration

A primary purpose of CJIN is to provide information to criminal justice personnel at the appropriate time. For example, an arrest warrant is critical information for law enforcement officers during routine field contacts (i.e. traffic stops) or investigations, and is a primary means for apprehending persons attempting to avoid arrest. CJIN queries currently limit the ability of law enforcement officers to easily identify registered offenders and their compliance status. However, the DOJ can modify the design of these queries to enhance the ability of criminal justice agencies to locate noncompliant offenders and enforce registration requirements.

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### CJIN Queries Do Not Automatically Search the Registry

During routine field contacts, law enforcement officers typically request a standard identification query through CJIN that checks the DOJ arrest warrants database to determine whether an individual has a warrant issued requesting the person be arrested or detained. This standard query does not check the registry to determine if the person stopped is a registered offender or the compliance status of an offender. Criminal justice personnel can submit a separate query through CJIN for registry information. However, a law enforcement officer is less likely to submit a separate query of the registry unless the officer has reason to suspect the person may be a registered offender. Law enforcement officers stated automatic searches of the registry for standard queries would enhance their ability to identify noncompliant offenders. Law enforcement officers also stated this additional information would enhance officer safety.

A standard identification query through CJIN is automatically sent to the National Crime Information Center (NCIC). The NCIC checks the National Sexual Offender Registry (NSOR) to determine if the person is a registered sexual offender, as well as whether the offender is compliant. However, there is no national registry for violent offenders, and registered Montana violent offenders are not

## Chapter IV - Strengthening the Registration Program

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entered into the NSOR unless the violent offense was against a child. Consequently, it is less likely noncompliant violent offenders will be identified during routine law enforcement contacts. Additionally, we noted several instances in which Montana sexual offenders were not entered into the NSOR.

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### **Reported Information Does Not Clearly Identify Noncompliant Offenders**

Registry information reported to law enforcement personnel states whether a person is a registered sexual or violent offender, but CJIN does not clearly display whether the offender is compliant with registration requirements. While information reported includes the most recent date of address verification, the purpose of the date is not indicated. CJIN management stated the templates used to display information could be modified to more clearly display the compliance status of registrants for criminal justice system personnel.

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### **Inactive Registered Offender Information is Not Available to All Criminal Justice Personnel**

The registry classifies registrants' status as either active or inactive. Active registrants are residing in communities, and inactive registrants have either left the state or are incarcerated or institutionalized. Standard identification requests only search for information about active registrants. Information on inactive registrants is not available to the public or criminal justice system personnel, although criminal justice system personnel may contact the program specialist to request information. Consequently, all criminal justice system personnel may not be able to identify sexual or violent offenders who have returned to Montana but failed to re-register with local law enforcement or the registry as required by statute.

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### **The DOJ Can Improve Access to Registered Offender Information**

The DOJ can strengthen the ability of law enforcement to identify noncompliant sexual and violent offenders and enforce registration requirements by ensuring requests for information from CJIN check the registry for offender information and clearly identify noncompliant offenders to criminal justice system agencies and personnel.

## Chapter IV - Strengthening the Registration Program

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### **Recommendation #2**

**We recommend the Department of Justice modify the standard CJIN query to automatically check registry information and provide information on the status of all registered offenders.**

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### **Noncompliant Sexual Offenders are Identified on the National Sexual Offender Registry**

Federal law requires states to register sexual offenders meeting NSOR criteria into the national registry. To test whether the DOJ enters these offenders into the national registry, we selected a random statistical sample of 28 sexual offenders who had not complied with registration requirements. Testing indicated five of twenty-eight sexual offenders (18 percent) were not entered into the NSOR.

The NSOR is a fingerprint based registration system that requires state registries to provide both a fingerprint card and Federal Bureau of Investigation (FBI) identification number for NSOR registration. Sexual offenders convicted in other states but residing in Montana do not have FBI numbers associated with a fingerprint card because the numbers are assigned at the time of arrest. According to DOJ management, program staff can request the necessary information from the state where the offender was originally arrested and convicted to register these offenders in the National Sexual Offender Registry.

### **Recommendation #3**

**We recommend the Department of Justice develop procedures to assure all sexual offenders registered in Montana are entered into the National Sexual Offender Registry.**

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### **Clarification of Statutory Language Is Needed for Registering Agencies**

Section 46-23-504(2), MCA, states offenders convicted of a sexual or violent offense and sentenced to probation under the supervision of DOC must register with the local probation and parole office. However, in practice, local law enforcement agencies are the sole registering agencies in communities and counties, and probation and parole officers require offenders report to the appropriate law enforcement agency for registration. This practice ensures there is a

## **Chapter IV - Strengthening the Registration Program**

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single registering entity within a jurisdiction, and members of the public have a single resource for obtaining information about registrants.

When DOC was responsible for registration activities prior to 1997, having probationers and parolees register with the local probation and parole office may have been practical. However, since DOJ is now responsible for maintaining the registry, having probationers and parolees register with probation and parole offices is unnecessary and creates additional paperwork for DOC staff. Probation and parole officers are responsible for assuring sexual or violent offenders comply with registration requirements as a condition of their sentence. DOJ should coordinate with DOC to seek legislation amending registration statutes to reflect the existing practices and responsibilities.

### **Recommendation #4**

**We recommend Department of Justice seek legislation to clarify that local law enforcement agencies are solely responsible for registering sexual or violent offenders who are not incarcerated.**

## **Department Responses**

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# DIVISION OF CRIMINAL INVESTIGATION

DEPARTMENT OF JUSTICE  
STATE OF MONTANA

RECEIVED

MAY 21 2003

LEGISLATIVE AUDIT DIV.

Mike McGrath  
Attorney General



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May 23, 2003

Angie Grove  
Audit Manager, Performance Audits  
Legislative Audit Division  
P.O. Box 201705  
Helena, MT 59620-1705

Dear Ms. Grove:

Thank you for your office's efforts in conducting the performance audit of the Montana Sexual or Violent Offender Registration Program. Your work is appreciated.

The Department of Justice agrees with the recommendations of the audit and will attempt to implement these enhancements within the next two years.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Batista".

Mike Batista  
Administrator



RECEIVED

DEPARTMENT OF CORRECTIONS

MAY 15 2003

LEGISLATIVE AUDIT DIV.

1539 11<sup>TH</sup> AVENUE



JUDY MARTZ, GOVERNOR

STATE OF MONTANA

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HELENA, MONTANA 59620-1301

May 13, 2003

Angie Grove  
Legislative Audit Division  
Room 160, State Capitol  
PO Box 201705  
Helena, Mt 59620-1705


Dear Ms. Grove:

I would like to thank you for the opportunity to review the performance audit report of the Sexual or Violent Offender Registry program. My staff and I have reviewed the report and recommendations and concur with your findings.

Although no functions within the Department of Corrections were identified in your specific recommendations, Table 2 on page 20 identifies instances of oversight by probation and parole staff in properly registering violent offenders. My staff will take the necessary steps to ensure that our officer's place increased emphasis on this critical process.

If we can be of further assistance, please contact Mark Peck, Emergency Response Coordinator, at 444-4761 or e-mail: [mapeck@state.mt.us](mailto:mapeck@state.mt.us).

Sincerely,

  
BILL SLAUGHTER  
Director

BS/mp/cj

Cc: Mike Ferriter, Administrator, Community Corrections Division  
Mark Peck, Emergency Response Coordinator





